Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XIV

PENSION SCHEMES, SOCIAL SECURITY BENEFITS, LIFE ANNUITIES ETC.

CHAPTER IV

PERSONAL PENSION SCHEMES

Restrictions on approval

632 Establishment of schemes.

[M1](1) The Board shall not approve a personal pension scheme established by any person other than—

(a) a person who is authorised under Chapter III of Part I of the [M2]Financial Services Act 1986 to carry on investment business and who carries on business of a kind mentioned in subsection (2) below;

(b) a building society within the meaning of the [M3]Building Societies Act 1986;

[[F1](bb) a pension company within the meaning of the [M4]Building Societies (Designation of Pension Companies) Order 1987 which is an associate of a building society within the meaning of section 18(17) of the Building Societies Act 1986;]

(c) an institution authorised under the [M5]Banking Act 1987;

[[F1](cc) a body corporate which is a subsidiary or holding company of an institution authorised under the Banking Act 1987, or is a subsidiary of the holding company of such an institution;]

(d) a recognised bank or licensed institution within the meaning of the [M6]Banking Act 1979.

(2) The kinds of business referred to in subsection (1)(a) above are—

(a) issuing insurance policies or annuity contracts;

(b) managing unit trust schemes authorised under section 78(1) of the Financial Services Act 1986.

[F2(2A) In subsection 1(cc) above "holding company" and "subsidiary" are to be construed in accordance with section 736 of the M7Companies Act 1985 or Article 4 of the M8Companies (Northern Ireland) Order 1986.]

(3) Subsection (1) above shall not apply in relation to a scheme approved by the Board by virtue of section 620(5) if it was established before [F31st July] 1988.

(4) The Treasury may by order amend this section as it has effect for the time being.

Textual Amendments

F1 S.I. 1988 No.993
F2 S.I. 1988 No.993
F3 1988(F) s.54(2)(a)—*deemed always to have had effect. Previously* "4th January".

Marginal Citations

M1 Source-1987 (No.2) s.20
M2 1986 c. 60.
M3 1986 c. 53.
M4 S.I. 1987 No.1871
M5 1987 c. 22.
M6 1979 c. 37.
M7 1985 c.6
M8 S.I. 1986 No.1032.

VALID FROM 28/07/2000

[F4632A Eligibility to make contributions.

(1) The Board shall not approve a personal pension scheme if it permits, in relation to arrangements made by a member in accordance with the scheme, the acceptance of—
(a) contributions by the member, or
(b) contributions by an employer of the member,
at a time when the member is not eligible to make contributions.

(2) The Board shall not approve a personal pension scheme unless it makes provision for ensuring, in relation to any such arrangements, that any contributions accepted at a time when the member is not eligible to make contributions are repaid—
(a) to the member, to the extent of his contributions; and
(b) as to the remainder, to his employer.

(3) The following provisions of this section, and the provisions of section 632B, have effect for determining for the purposes of subsections (1) and (2) above the times at which a member is eligible to make contributions (and, for those purposes, a member is not eligible to make contributions at any other time).

(4) A member is eligible to make contributions at any time during a year of assessment for which he has actual net relevant earnings.

(5) A member who does not have actual net relevant earnings for a year of assessment ("the relevant year") is eligible to make contributions at any time during that year if—
(a) for at least some part of the year he does not hold an office or employment to which section 645 applies; and
(b) the condition in any of subsections (6) to (9) below is satisfied.

(6) Condition A is that at some time in the relevant year the member is resident and ordinarily resident in the United Kingdom.

(7) Condition B is that the member—
(a) at some time during the five years of assessment preceding the relevant year, has been resident and ordinarily resident in the United Kingdom; and
(b) was resident and ordinarily resident in the United Kingdom when he made the personal pension arrangements in question.

(8) Condition C is that at some time in the relevant year the member is a person who performs duties which, by virtue of section 132(4)(a), are treated as being performed in the United Kingdom.

(9) Condition D is that at some time in the relevant year the member is the spouse of a person who performs such duties as are mentioned in subsection (8) above.]

Textual Amendments

F4 Ss. 632A, 632B inserted (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 8** (with Sch. 13 Pt. 2)

VALID FROM 28/07/2000

[F4 632B Eligibility to make contributions: concurrent membership.

(1) A member who would not, apart from this section, be eligible to make contributions during a year of assessment shall be eligible to make contributions at any time during that year if—
(a) throughout the year he holds an office or employment to which section 645 applies;
(b) the condition in any of subsections (6) to (9) of section 632A is satisfied in his case as respects the year;
(c) he is not, and has not been, a controlling director of a company at any time in the year or in any of the five years of assessment preceding it;
(d) for at least one of the five years of assessment preceding the year, the aggregate of his grossed-up remuneration from each office and each employment held on 5th April in that preceding year does not exceed the remuneration limit for the relevant year; and
(e) the total relevant contributions made in the year do not exceed the earnings threshold for the year.

(2) For the purposes of paragraphs (c) and (d) of subsection (1) above, no account shall be taken of any year of assessment earlier than the year 2000-01.

(3) For the purposes of paragraph (c) of subsection (1) above, a person is a controlling director of a company at any time if at that time—
(a) he is a director, as defined by section 612(1); and
(b) he is within paragraph (b) of section 417(5) in relation to the company.

(4) For the purposes of paragraph (d) of subsection (1) above—
(a) "grossed up", in relation to a person's remuneration from an office or employment, means increased by being multiplied by a figure determined in accordance with an order made by the Treasury (or left unchanged, if that figure is unity);
(b) "remuneration" shall be construed in accordance with an order made by the Treasury;
(c) "the remuneration limit" for any year of assessment is £30,000;
(d) "the relevant year" means the year of assessment first mentioned in subsection (1) above.

The Treasury may by order amend the definition of "the remuneration limit" in paragraph (c) above for any year of assessment by varying the amount there specified.

(5) For the purposes of paragraph (e) of subsection (1) above and the following provisions of this section, "the total relevant contributions", in the case of a year of assessment, means the aggregate amount of the contributions made in the year—
(a) by the member in question, and
(b) by any employer of his,

under arrangements made by the member under the scheme in question, together with the aggregate amounts of such contributions under other approved personal pension arrangements made by that member.

(6) If—
(a) in the case of a member, the total relevant contributions in a year of assessment, apart from this subsection, exceed the earnings threshold for the year, and
(b) but for that, the member would be eligible to make contributions by virtue of subsection (1) above at any time in that year,

the repayment required by subsection (2) of section 632A is repayment of the relevant excess contributions only (so that the condition in subsection (1)(e) above becomes satisfied).

(7) In subsection (6) above "the relevant excess contributions" means—
(a) to the extent that a contribution is the first which caused the total relevant contributions in the year to exceed the earnings threshold for the year, that contribution; and
(b) all subsequent contributions in the year.

(8) The Treasury may by order make provision requiring any person who claims to be eligible to make contributions by virtue of this section to provide to—
(a) the Board,
(b) an officer of the Board, or
(c) the scheme administrator of the personal pension scheme concerned,

such declarations, certificates or other evidence in support of the claim as may be specified or described in, or determined in accordance with, the order.

(9) A person shall only be eligible to make contributions by virtue of this section in a year of assessment if he complies with any requirements imposed by order under subsection (8) above.**]**

Textual Amendments

F4 Ss. 632A, 632B inserted (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 8** (with Sch. 13 Pt. 2)

Modifications etc. (not altering text)

C1 S. 632B(4)(a) modified (6.4.2001 in accordance with art. 1(1) of the modifying S.I.) by The Personal Pension Schemes (Concurrent Membership) Order 2000 (S.I. 2000/2318), **art. 3(1)**

633 Scope of benefits.

M9(1) The Board shall not approve a personal pension scheme which makes provision for any benefit other than—

(a) the payment of an annuity satisfying the conditions in section 634;

(b) the payment to a member of a lump sum satisfying the conditions in section 635;

(c) the payment after the death of a member of an annuity satisfying the conditions in section 636;

(d) the payment on the death of a member of a lump sum satisfying either the conditions in section 637(1) or those in section 637(2).

(2) Subsection (1) above shall not prevent the approval of a scheme which makes provision for insurance against a risk relating to the non-payment of contributions.

Marginal Citations

M9 Source-1987 (No.2) s.21

634 Annuity to member.

M10(1) The annuity must be payable by an authorised insurance company which may be chosen by the member.

(2) Subject to subsection (3) below, the annuity must not commence before the member attains the age of 50 or after he attains the age of 75.

(3) The annuity may commence before the member attains the age of 50 if—

(a) it is payable on his becoming incapable through infirmity of body or mind of carrying on his own occupation or any occupation of a similar nature for which he is trained or fitted; or

(b) the Board are satisfied that his occupation is one in which persons customarily retire before that age.

(4) Subject to subsection (5) below, the annuity must be payable to the member for his life.

(5) The annuity may continue for a term certain not exceeding ten years, notwithstanding the member's death within that term; and for this purpose an annuity shall be regarded as payable for a term certain notwithstanding that it may terminate, after the death of the member and before expiry of that term, on the happening of any of the following—
  (a) the marriage of the annuitant;
  (b) his attaining the age of 18;
  (c) the later of his attaining that age and ceasing to be in full-time education.

(6) The annuity must not be capable of assignment or surrender, except that an annuity for a term certain may be assigned by will or by the annuitant's personal representatives in the distribution of his estate so as to give effect to a testamentary disposition, or to the rights of those entitled on an intestacy, or to an appropriation of it to a legacy or to a share or interest in the estate.

Marginal Citations
M10 Source-1987 (No.2) s.22

VALID FROM 01/05/1995

[F5 634A Income withdrawals by member.

(1) Where a member elects to defer the purchase of an annuity such as is mentioned in section 634, income withdrawals may be made by him during the period of deferral, subject as follows.

(2) Income withdrawals must not be made before the member attains the age of 50, unless—
  (a) they are available on his becoming incapable through infirmity of body or mind of carrying on his own occupation or any occupation of a similar nature for which he is trained or fitted, or
  (b) the Board are satisfied that his occupation is one in which persons customarily retire before that age.

(3) Income withdrawals must not be made after the member attains the age of 75.

(4) The aggregate amount of income withdrawals by a member in each successive period of twelve months beginning with his pension date must be not less than 35 per cent. or more than 100 per cent. of the annual amount of the annuity which would have been purchasable by him on the relevant reference date.

(5) For the purposes of this section the relevant reference date for the first three years is the member's pension date, and for each succeeding period of three years is the first day of that period.

(6) The right to income withdrawals must not be capable of assignment or surrender.**]**

Textual Amendments
F5 S. 634A inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 4**

635 Lump sum to member.

M11(1) The lump sum must be payable only if the member so elects on or before the date on which an annuity satisfying the conditions in section 634 is first payable to him under the arrangements made in accordance with the scheme.

(2) The lump sum must be payable when that annuity is first payable.

[F6(3) The lump sum must not exceed one quarter of the difference between—
(a) the total value, at the time when the lump sum is paid, of the benefits provided for by the arrangements made by the member in accordance with the scheme, and
(b) the value, at that time, of such of the member's rights under the scheme as are protected rights for the purposes of the Social Security Act 1986 or the Social Security (Northern Ireland) Order 1986.]

(4) *The lump sum must not exceed* £150,000*or such other sum as may for the time being be specified in an order made by the Treasury*F7.

(5) The right to payment of the lump sum must not be capable of assignment or surrender.

Textual Amendments

F6 1989 s.77*and* Sch.7 para.2(2)*in relation to the approval of a scheme on or after* 27*July* 1989*but if the scheme came into existence before* 27*July* 1989 para.2(2)*shall not have effect as regards arrangements made by a member in accordance with the scheme before that date. Previously*
"(3) The lump sum must not exceed one quarter of the total value, at the time when the lump sum is paid, of the benefits for the member provided for by the arrangements made by him in accordance with the scheme.".

F7 *Words repealed by* 1989 ss.77, 187*and* Schs.7 para. 2(3)*and* 17 Part IV*in relation to approvals on or after* 27*July* 1989.

Marginal Citations

M11 Source-1987 (No.2) s.23

636 Annuity after death of member.

M12(1) The annuity must be payable by an authorised insurance company which may be chosen by the member or by the annuitant.

(2) The annuity must be payable to the surviving spouse of the member, or to a person who was at the member's death a dependant of his.

(3) The aggregate annual amount (or, if that amount varies, the aggregate of the initial annual amounts) of all annuities to which this section applies and which are payable under the same personal pension arrangements shall not exceed—
(a) where before his death the member was in receipt of an annuity under the arrangements, the annual amount (or, if it varied, the highest annual amount) of that annuity; or
(b) where paragraph (a) does not apply, the highest annual amount of the annuity that would have been payable under the arrangements to the member (ignoring any entitlement of his to commute part of it for a lump sum) if it had vested on the day before his death.

(4) Subject to subsections (5) to (9) below, the annuity must be payable for the life of the annuitant.

(5) Where the annuity is payable to the surviving spouse of the member and at the time of the member's death the surviving spouse is under the age of 60, the annuity may be deferred to a time not later than—
- (a) the time when the surviving spouse attains that age; or
- (b) where the member's annuity is payable to the surviving spouse for a term certain as mentioned in section 634(5) and the surviving spouse attains the age of 60 before the time when the member's annuity terminates, that time.

(6) The annuity may cease to be payable on the marriage of the annuitant.

(7) Where the annuity is payable to the surviving spouse of the member, it may cease before the death of the surviving spouse if—
- (a) the member was survived by one or more dependants under the age of 18 and at the time of the member's death the surviving spouse was under the age of 45; and
- (b) at some time before the surviving spouse attains that age no such dependant remains under the age of 18.

(8) Where the annuity is payable to a person who is under the age of 18 when it is first payable, it must cease to be payable either—
- (a) on his attaining that age; or
- (b) on the later of his attaining that age and ceasing to be in full-time education,

unless he was a dependant of the member otherwise than by reason only that he was under the age of 18.

(9) The annuity may continue for a term certain not exceeding ten years, notwithstanding the original annuitant's death within that term; and for this purpose an annuity shall be regarded as payable for a term certain notwithstanding that it may terminate, after the death of the original annuitant and before the expiry of that term, on the happening of any of the following—
- (a) the marriage of the annuitant to whom it is payable;
- (b) his attaining the age of 18;
- (c) the later of his attaining that age and ceasing to be in full-time education.

(10) The annuity must not be capable of assignment or surrender, except that an annuity for a term certain may be assigned by will or by the annuitant's personal representatives in the distribution of his estate so as to give effect to a testamentary disposition, or to the rights of those entitled on an intestacy, or to an appropriation of it to a legacy or to a share or interest in the estate.

Marginal Citations

M12 Source-1987 (No.2) s.24

VALID FROM 01/05/1995

[F8 636A Income withdrawals after death of member.

(1) Where a person entitled to such an annuity as is mentioned in section 636 elects to defer the purchase of the annuity, income withdrawals may be made by him during the period of deferral, subject as follows.

(2) No such deferral may be made, and accordingly income withdrawals may not be made, if the person concerned elects in accordance with section 636(5)(a) to defer the purchase of an annuity.

(3) Income withdrawals must not be made after the person concerned if he had purchased such an annuity as is mentioned in section 636 would have ceased to be entitled to payments under it.

(4) Income withdrawals must not in any event be made after the member would have attained the age of 75 or, if earlier, after the person concerned attains the age of 75.

(5) The aggregate amount of income withdrawals by a person in each successive period of twelve months beginning with the date of the member's death must be not less than 35 per cent. or more than 100 per cent. of the annual amount of the annuity which would have been purchasable by him on the relevant reference date.

(6) For the purposes of this section the relevant reference date for the first three years is the date of the member's death, and for each succeeding period of three years is the first day of that period.

(7) The right to income withdrawals must not be capable of assignment or surrender.**]**

Textual Amendments

F8 S. 636A inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 7**

637 Lump sum on death of member.

(1) [M13] The lump sum—

(a) must be payable by an authorised insurance company; and

(b) must be payable on the death of the member before he attains the age of 75.

(2) [M14] The lump sum—

(a) must be payable only if no annuity satisfying the conditions in either section 634 or section 636 has become payable; and

(b) subject to subsection (3) below, must represent no more than the return of contributions together with reasonable interest on contributions or bonuses out of profits.

(3) To the extent that contributions are invested in units under a unit trust scheme, the lump sum referred to in subsection (2) above may represent the sale or redemption price of the units.

Marginal Citations

M13 Source-1987 (No.2) s.25

M14 Source-1987 (No.2) s.26

VALID FROM 01/05/1995

[F9 637A Return of contributions on or after death of member.

(1) The lump sum must be payable on or after the death of the member and represent no more than the return of contributions together with reasonable interest on contributions or bonuses out of profits, after allowing for any income withdrawals.

To the extent that contributions are invested in units under a unit trust scheme, the lump sum may represent the sale or redemption price of the units.

(2) The lump sum must be payable only if—

(a) no annuity has been purchased by the member under the arrangements in question,

(b) no such annuity as is mentioned in section 636 has been purchased by the person to whom the payment is made, and

(c) the person to whom the payment is made has not elected in accordance with subsection (5)(a) of section 636 to defer the purchase of such an annuity as is mentioned in that section.

(3) Where the member's death occurs after the date which is his pension date in relation to the arrangements in question, the lump sum must be payable not later than two years after the death.]

Textual Amendments

F9 Ss. 637, 637A substituted for s. 637 (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 8**

638 Other restrictions on approval.

(1) [M15]The Board shall not approve a personal pension scheme unless they are satisfied that there is a person resident in the United Kingdom who will be responsible for the management of the scheme.

(2) The Board shall not approve a personal pension scheme unless it makes such provision for the making, acceptance and application of transfer payments as satisfies any requirements imposed by or under regulations made by the Board.

(3) [M16]The Board shall not approve a personal pension scheme unless it makes provision, in relation to arrangements made in accordance with the scheme, for ensuring that—

(a) the aggregate amount of the contributions that may be made in a year of assessment by the member and an employer of his under the arrangements, together with the aggregate amounts of such contributions under other approved personal pension arrangements made by that member, does not exceed the permitted maximum for that year; and

(b) any excess is repaid to the member of the extent of his contributions and otherwise to his employer.

(4) In subsection (3) above "the permitted maximum" for a year of assessment means an amount equal to the aggregate of—

(a) the relevant percentage of the member's net relevant earnings for the year; and

(b) so much of any relief given under section 639(1) for that year as is given by virtue of section 642;

and references in subsection (3) to contributions by the member do not include references to contributions treated by virtue of section 649(3) as paid by him.

(5) In subsection (4) above "the relevant percentage" means 17.5 per cent. or, in a case where section 640(2) applies, the relevant percentage there specified.

(6) [M17]The Board shall not approve a personal pension scheme which permits the acceptance of contributions other than—

(a) contributions by members;

(b) contributions by employers of members;

(c) minimum contributions paid by the Secretary of State under Part I of the [M18]Social Security Act 1986 or by the Department of Health and Social Services for Northern Ireland under Part II of the [M19]Social Security (Northern Ireland) Order 1986.

[[F10](7) The Board shall not approve a personal pension scheme which permits the acceptance of minimum contributions paid as mentioned in subsection (6)(c) above in respect of an individual's service as director of a company, if his emoluments as such are within section 644(5).

(8) A personal pension scheme which permits the acceptance of minimum contributions paid as mentioned in subsection (6)(c) above in respect of an individual's service in an office or employment to which section 645 applies may be approved by the Board only if—

(a) the scheme does not permit the acceptance of contributions from the individual or from the person who is his employer in relation to that office or employment; or

(b) at the time when the minimum contributions are paid the individual is not serving in an office or employment to which section 645 applies.**]**

Textual Amendments

F10 1988(F) s.55(2)—*from* 1*July* 1988.*Previously*
"(7) The Board shall not approve a personal pension scheme which permits the acceptance of minimum contributions paid as mentioned in subsection (6)(c) above in respect of an individual's service—(a) as director of the company, if his emoluments as such are within section 644(5); or (b) in an office or employment to which section 645 applies.".

Modifications etc. (not altering text)

C2 *For regulations see* Part III Vol.5 (*under* "*Personal pension schemes*").

Marginal Citations

M15 Source-1987 (No.2) s.27

M16 Source-1987 (No.2) s.29
M17 Source-1987 (No.2) s.30
M18 1986 c.50.
M19 S.I. 1986/1888 (N.I. 18).

VALID FROM 28/07/2000

[F11 638ZA Personal pension arrangements with more than one pension date etc.

(1) This section applies where a personal pension scheme makes provision for a personal pension arrangement under the scheme to make provision—

(a) for the payment of more than one annuity satisfying the conditions in section 634 or 636 (a "qualifying annuity") and for different such annuities to commence, or be capable of commencing, on different days;

(b) for elections such as are mentioned in section 634A(1) or 636A(1) ("elections for deferral") to be capable of being made at different times in relation to different portions of the personal pension fund; and

(c) for a qualifying lump sum to be payable in connection with—

(i) each qualifying annuity (other than one purchased pursuant to section 634A, 636 or 636A); and

(ii) each election for deferral such as is mentioned in section 634A(1).

(2) The Board shall not refuse to approve a personal pension scheme by reason only that it makes such provision as is mentioned in subsection (1) above if they are satisfied that it makes provision in conformity with the provisions of this section.

(3) In this section—

"income withdrawal fund" means a portion of the personal pension fund which is specified or described in an election for deferral as the portion of that fund to which the election relates;

"qualifying lump sum" means a lump sum satisfying the conditions of section 635 (as that section has effect by virtue of and in accordance with this section);

"the relevant date", in relation to any qualifying annuity or election for deferral, means the date determined in accordance with the arrangement on which—

(a) the qualifying annuity commences; or

(b) the member makes the election for deferral.

(4) In the application of section 635 in relation to a qualifying lump sum, for the condition in subsection (3) there shall be substituted the conditions in subsections (5) and (6) below (as read with subsection (7) below).

(5) The first condition is that the lump sum must not exceed one-third of—

(a) the difference between—

(i) the value of the portion of the personal pension fund applied in the provision of the qualifying annuity in connection with which the lump sum is paid, determined as at the date on which that portion is so applied, and

(ii) the value, determined as at that date, of so much of that portion as represents protected rights, or

(b) the value, as at the relevant date, of the income withdrawal fund which relates to the election for deferral in connection with it is paid,

as the case may be.

(6) The second condition is that the lump sum must not represent any of the value, at the time when the lump sum is paid, of any protected rights.

(7) In subsections (5) and (6) above, "protected rights" means any of the member's rights under the personal pension arrangement which are protected rights for the purposes of the [M20]Pension Schemes Act 1993 or the [M21]Pension Schemes (Northern Ireland) Act 1993.

(8) Where a qualifying annuity commences, this Chapter and the personal pension scheme concerned shall have effect, as from the relevant date, as if there had been a separate personal pension arrangement and—

(a) the annuity, and any qualifying lump sum payable in connection with it, were benefits provided for by that separate arrangement (instead of by the personal pension arrangement by which it was actually provided (in this subsection referred to as "the relevant arrangement"));

(b) the portion of the personal pension fund applied in the provision of the annuity, together with the amount of any qualifying lump sum payable in connection with the annuity, had been the personal pension fund in the case of that separate arrangement (and were excluded from the personal pension fund in the case of the relevant arrangement);

(c) any election for the annuity, or for such a qualifying lump sum, had been made under that separate arrangement (instead of under the relevant arrangement); and

(d) except in the case of an annuity satisfying the conditions in section 636, the relevant date were the pension date in relation to that separate arrangement (and were not, by reference to that annuity, the pension date in relation to the relevant arrangement).

(9) Where, in the case of any personal pension arrangement (in this subsection referred to as "the relevant arrangement"), an election for deferral is made, this Chapter and the personal pension scheme concerned shall have effect, as from the relevant date, as if there had been, and continued to be, a separate personal pension arrangement and—

(a) the income withdrawal fund which relates to the election, together with the amount of any qualifying lump sum payable in connection with the election, had been the personal pension fund in the case of that separate arrangement (and were excluded from the personal pension fund in the case of the relevant arrangement);

(b) the election for deferral, and any election for such a qualifying lump sum, had been made under that separate arrangement (instead of under the relevant arrangement);

(c) the election for deferral had been made in respect of the whole of the income withdrawal fund which relates to the election; and

(d) except in the case of an election such as is mentioned in section 636A(1), the relevant date were the pension date in relation to that separate arrangement (and were not, by reference to that election, the pension date in relation to the relevant arrangement).**]**

Textual Amendments

F11 S. 638ZA inserted (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 14** (with Sch 13 Pt. 2)

Marginal Citations

M20 1993 c. 48.

M21 1993 c. 49.

VALID FROM 31/07/1998

[F12 638A Power to prescribe restrictions on approval.

(1) The Board—

(a) may by regulations restrict their discretion to approve a personal pension scheme; and

(b) shall not approve any such scheme if to do so would be inconsistent with any regulations under this section.

(2) The restrictions that may be imposed by regulations under this section may be imposed by reference to any one or more of the following, that is to say—

(a) the benefits for which the scheme provides;

(b) the investments held for the purposes of the scheme;

(c) the manner in which the scheme is administered;

(d) any other circumstances whatever.

(3) The following provisions of this section apply where—

(a) any regulations are made under this section imposing a restriction ("the new restriction") on the Board's discretion to approve a personal pension scheme;

(b) the new restriction did not exist immediately before the making of the regulations; and

(c) that restriction is one imposed by reference to circumstances other than the benefits for which the scheme provides.

(4) Subject to subsections (5) and (6) below, a personal pension scheme which is an approved scheme immediately before the day on which the regulations imposing the new restriction come into force shall cease to be approved at the end of the period of 36 months beginning with that day if, at the end of that period, the scheme—

(a) contains a provision of a prohibited description, or

(b) does not contain every provision which is a provision of a required description.

(5) The Board may by regulations provide that subsection (4) above is not to apply in the case of the inclusion of such provisions of a prohibited description, or in the case of the omission of such provisions of a required description, as may be specified in the regulations.

(6) For the purposes of subsection (4) above—

(a) a provision contained in a scheme shall not be treated as being of a prohibited description to the extent that it authorises the retention of an investment held immediately before the day of the making of the new regulations; and

(b) so much of any provision contained in a scheme as authorises the retention of an investment held immediately before that day shall be disregarded in determining if any provision of the scheme is of a required description.

(7) In this section—

(a) references to a provision of a prohibited description are references to a provision of a description which, by virtue of the new restriction, is a description of provision which, if contained in a personal pension scheme, would prevent the Board from approving it; and

(b) references to a provision of a required description are references to a provision of a description which, by virtue of the new restriction, is a description of provision which must be contained in a personal pension scheme before the Board may approve it.**]**

Textual Amendments

F12 S. 638A inserted (31.7.1998) by Finance Act 1998 (c. 36), **s. 94(1)**

Status:
Point in time view as at 01/01/1994. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation:
Income and Corporation Taxes Act 1988, Cross Heading: Restrictions on approval is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.